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EXAMINER
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DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/882,759

Applicant(s)

MCALINDEN, PAUL

Examiner

Willie J. Daniel, Jr.

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-18 and 33-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-18 and 33-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 29 September 2006. **Claims 1-2, 4, 6-18, and 33-46** are now pending in the present application **claims 3, 5, and 19-32** have been canceled. This office action is made **Final**.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 4, 6, 33, 41-42, and 45** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter **Fette**) (**US 6,052,600**) in view of **Webster et al.** (hereinafter **Webster**) (**US 6,449,493 B1**) and **Imamatsu** (**US 6,687,901 B1**).

Regarding **claim 1**, Fette discloses a software programmable radio (200) which hereinafter reads on the claimed "portable device" (see col. 4, lines 54-67; Figs. 1 and 2), comprising:

a memory (206) which hereinafter reads on the claimed "storage unit" having a first portion and second portion (see col. 4, lines 55-56; col. 5, lines 33-49, 55-57; col. 6, line 21-23, 62-65; Fig. 2 "ref. 206"), where the memory has separate portions for storing information;

a configuration application stored in the second portion (see col. 3, lines 52-57; col. 5, lines 11-13, 18-22, 33-49, 55-57; col. 6, line 21-23, 62-65; Fig. 2 "ref. 206"); and

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a controller (204) which hereinafter reads the claimed "control unit" communicatively coupled to the storage unit (206) (see Fig. 2),

based upon detection of a problem (200) (see col. 8, line 54-57; col. 8, line 64 - col. 9, line 19; Figs. 3 "ref. 314, 320", 4 "ref. 322, 324"), where the controller (204) of the radio (200) tests the software by checking for problems,

request configuration information in response to determining that configuration is desired (see col. 3, lines 31-34, col. 4, lines 25-34; col. 7, lines 42-48; Fig. 3), and

receive the requested configuration information (see col. 4, lines 34-36), where the mobile radio receives the requested software updates; and

store the requested configuration information in the first portion of the storage unit (206) (see col. 5, lines 33-48, 55-57; col. 4, lines 27-35; Figs. 2 "ref. 206", 3, and 4), where the controller stores the information (e.g., software programs, configuration/reconfiguration files, waveforms, licenses) in portions of the storage unit. As a note, the storage unit (206) has separate portions as shown in Fig. 2 "206". As a note, Fette discloses the SDC (114) and server (110) recognizes which software updates the radio (200) needs (see col. 4, lines 27-35). Fette does not specifically disclose having the features the second portion comprising a protected region; the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station. However, the examiner maintains that the features the second portion comprising a protected region was well known in the art, as taught by Webster.

In the same field of endeavor, Webster discloses the feature the second portion comprising a protected region (see col. 3, lines 12-15, 44-50; col. 5, lines 46-54; Fig. 1 "ref.

32”), where the regions of the memory uses, for example, dealer programs or passwords to protect against alterations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Webster to have the feature the second portion comprising a protected region, in order to make operation of the portable or mobile radio simple, as taught by Webster (see col. 1, lines 38-42). The combination of Fette and Webster does not specifically disclose having the feature the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station. However, the examiner maintains that the feature the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station was well known in the art, as taught by Imamatsu.

In the same field of endeavor, Imamatsu discloses the feature the CPU (22) which reads on the claimed “control unit” to execute the configuration application to determine whether configuration of the mobile terminal device (10) which reads on the claimed “portable device” is desired based upon detection of a problem by a base station (103) (see col. 4, lines 10-17, 43-47; col. 9, lines 40-48; col. 12, lines 38-45; Figs. 2-3 and 4), where the software-supply device (50) via the base station (103) determines mobile device (10) does not have the latest software version.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, and Imamatsu to have the feature the control unit to execute the configuration application to determine whether

configuration of the portable device is desired based upon detection of a problem by a base station, in order to update software efficiently and safely with a simple structure and control in a radio terminal device, as taught by Imamatsu (see col. 2, lines 10-14).

Regarding **claim 2**, the combination of Fette, Webster, and Imamatsu discloses every limitation claimed, as applied above (see claim 1), in addition Fette further discloses the portable (200) device of claim 1, wherein the control unit (204) to further initialize the portable device (200) using at least a portion of the configuration information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9), where the controller configures the portable device with the update information.

Regarding **claim 4**, the combination of Fette, Webster, and Imamatsu discloses every limitation claimed, as applied above (see claim 1), in addition Fette further discloses the portable device (200) of claim 1, wherein the control unit (204) to establish a communication link (105) with a software distribution computer (SDC) (114) which hereinafter reads on the claimed "remote device" to receive the configuration information (see col. 3, lines 28-41; Fig. 1), where the portable device establishes a connection with the SDC via the base station to the server which is coupled to the SDC.

Regarding **claim 6**, the combination of Fette, Webster, and Imamatsu discloses every limitation claimed, as applied above (see claim 1), in addition Fette further discloses the portable device (200) of claim 1, wherein the control unit (204) to receive at least one of an operating system, protocol stack layer, and application layer of the portable device (200) (see col. 3, lines 40-57; col. 4, lines 25-36; col. 6, lines 24-65; Figs. 3 and 4), where the portable

device receives information for the operating software, communication protocol, or an application.

Regarding **claim 33**, the combination of Fette and Webster discloses every limitation claimed, as applied above (see claim 1), in addition Fette further discloses the portable device of claim 1, wherein the control unit (204) to determine whether configuration is desired (see col. 2, lines 40-45; col. 3, lines 36-41; col. 4, lines 34-35, 42-44; Fig. 3), where the radio (200) receives the information (software) through the base station (106) which verifies that a update or new software is available. The combination of Fette and Webster does not specifically disclose having the feature comprises the control unit to receive an indication from a base station to which the portable device is coupled. However, the examiner maintains that the feature comprises the control unit to receive an indication from a base station to which the portable device is coupled was well known in the art, as taught by Imamatsu.

Imamatsu further discloses the feature comprises the control unit (22) to receive an indication from a base station (103) to which the portable device (10) is coupled (see col. 4, lines 21-25; col. 9, lines 6-12, 40-48, 52-56; col. 8, lines 1-8, 19-22; Figs. 2-3 and 7-8), where the software supply device determines whether an update is necessary and transmits the software via the base station (103) to the mobile terminal (10) for an upgrade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, and Imamatsu to have the feature comprises the control unit to receive an indication from a base station to which the portable device is coupled, in order to update software efficiently and safely with a

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simple structure and control in a radio terminal device, as taught by Imamatsu (see col. 2, lines 10-14).

Regarding **claim 41**, the combination of Fette, Webster, and Imamatsu discloses every limitation claimed, as applied above (see claim 4), in addition Fette further discloses the portable device of claim 4, wherein the control unit (204) is to provide a radio ID which reads on the claimed “unique electronic identifier” to the remote device (114) (see col. 8, lines 3-14), where a unique radio ID is associated with the portable device for identification of licenses and software.

Regarding **claim 42**, the combination of Fette, Webster, and Imamatsu discloses every limitation claimed, as applied above (see claim 41), in addition Fette further discloses the portable device of claim 41, wherein the requested configuration information is associated with the unique electronic identifier (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 42-49; col. 8, lines 3-14), where the controller receives the requested information for the portable device based on the associated radio ID.

Regarding **claim 45**, the combination of Fette and Webster discloses every limitation claimed as applied above in claim 1. The combination of Fette and Webster does not specifically disclose having the feature wherein the control unit to further prompt a user to couple the portable device to a battery charger prior to the request for the configuration information. However, the examiner maintains that the feature wherein the control unit to further prompt a user to couple the portable device to a battery charger prior to the request for the configuration information was well known in the art, as taught by Imamatsu.



Imamatsu further discloses the feature wherein the control unit (22) to further prompt a user to couple the portable device to a battery charger prior to the request for the configuration information (see col. 9, lines 12-30; Figs. 2-3 and 7-8), where the update is performed according to the condition of the battery such as the mobile device (10) connected to a charger.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, and Imamatsu to have the feature wherein the control unit to further prompt a user to couple the portable device to a battery charger prior to the request for the configuration information, in order to update software efficiently and safely with a simple structure and control in a radio terminal device, as taught by Imamatsu (see col. 2, lines 10-14).

**Claims 7, 34, and 44** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (**US 6,052,600**) in view of Webster et al. (hereinafter Webster) (**US 6,449,493 B1**) and Imamatsu (**US 6,687,901 B1**) as applied to claim 1 above, and further in view of **Criss et al.** (hereinafter Criss) (**US 6,735,434 B2**).

Regarding **claim 7**, the combination of Fette, Webster, and Imamatsu discloses the limitations claimed, as applied above (see claim 1), in addition Fette further discloses the portable device (200) of claim 1, wherein the control unit (204) to determine (see col. 8, lines 21-37; col. 9, lines 15-19; Figs. 3 “314” and 4 “322”), where the controller determines if the software upgrade is complete and correct. The combination of Fette, Webster, and Imamatsu does not specifically disclose having the feature determine whether restoration of the portable

device to a prior operational state is desired; and further wherein the configuration information includes reconfiguration information associated with the portable device in the prior operational state. However, the examiner maintains that the feature determine whether restoration of the portable device to a prior operational state is desired; and further wherein the configuration information includes reconfiguration information associated with the portable device in the prior operational state was well known in the art, as taught by Criss.

In the same field of endeavor, Criss discloses the feature determine whether restoration of the portable device to a prior operational state is desired (see col. 14, lines 58-62), where the portable terminal has the ability to use the old version when there is a problem with the new version; and

further wherein the configuration information includes reconfiguration information associated with the portable device in the prior operational state (see col. 14, lines 58-62), where the portable terminal has the ability to use the old version when there is a problem with the new version thereby allowing the portable terminal to rollback or revert to the old version.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, Imamatsu, and Criss to have the feature determine whether restoration of the portable device to a prior operational state is desired; and further wherein the configuration information includes reconfiguration information associated with the portable device in the prior operational state, in order to have software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

Regarding **claim 34**, the combination of Fette, Webster, and Imamatsu discloses every limitation claimed, as applied above (see claim 1), in addition Fette further discloses of the portable device of claim 1, wherein the control unit (204) to further visually verify with a user that the configuration is desired (see col. 4, lines 30-35; col. 5, lines 21-23; col. 7, lines 41-49; Fig. 4 “ref. 334”), where the user can accept or deny the software for configuring the radio in which the visually would be inherent via a display(214) as evidenced by the fact that one of ordinary skill in the art would clearly recognize. The combination of Fette, Webster, and Imamatsu does not specifically disclose having the feature prior to the request for the configuration information. However, the examiner maintains that the feature prior to the request for the configuration information was well known in the art, as taught by Criss.

Criss further discloses the feature prior to the request for the configuration information (see col. 17, lines 19-45; Fig. 11), where the user of the mobile terminal (36) selects software packages which requests the available software.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, Imamatsu, and Criss to have the feature prior to the request for the configuration information, in order to have software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

Regarding **claim 44**, the combination of Fette and Webster discloses every limitation claimed as applied above in claim 1. The combination of Fette and Webster does not specifically disclose having the feature wherein the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon

detection of a problem by a base station in response to a booting of the portable device.

However, the examiner maintains that the feature wherein the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station was well known in the art, as taught by Imamatsu.

Imamatsu discloses the feature wherein the CPU (22) which reads on the claimed “control unit” to execute the configuration application to determine whether configuration of the mobile terminal device (10) which reads on the claimed “portable device” is desired based upon detection of a problem by a base station (103) (see col. 4, lines 10-17, 43-47; col. 9, lines 40-48; col. 12, lines 38-45; Figs. 2-3 and 4), where the software-supply device (50) via the base station (103) determines mobile device (10) does not have the latest software version.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, and Imamatsu to have the feature wherein the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station, in order to update software efficiently and safely with a simple structure and control in a radio terminal device, as taught by Imamatsu (see col. 2, lines 10-14). The combination of Fette, Webster, and Imamatsu does not specifically disclose having the feature in response to a booting of the portable device. However, the examiner maintains that the feature in response to a booting of the portable device was well known in the art, as taught by Criss.

Criss further discloses the feature in response to booting the portable device (see col. 6, lines 60-67; col. 7, lines 24-60; Figs. 1-2, 12), where the mobile terminal goes through a boot-up routing or initialization in which the host computer detects that the mobile terminal is using an older version of operating software and transmits a request via the base station to the mobile terminal for an upgrade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, Imamatsu, and Criss to have the feature in response to booting the portable device, in order to have software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

**Claims 8-12 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (**US 6,052,600**) in view of **Moles et al.** (hereinafter Moles) (**US 2002/0072359 A1**).

Regarding **claim 8**, Fette discloses a method, comprising:

diagnosing a malfunction of a portable device (200) (see col. 8, lines 29-38; col. 9, lines 11-20; col. 7, lines 18-25, 42-49; col. 4, lines 27-35; Fig. 3 “ref. 303, 316, 324” ), where the radio (200) fails to support an operation;

determining in the portable device if configuration of the portable device (200) is desired based on the determination diagnosing a malfunction (see col. 2, lines 34-45; col. 3, lines 31-41; col. 4, lines 25-36; col. 5, lines 18-21; col. 7, 42-49; Fig. 3), where the radio controller

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determines if new or updated information is available and request the information for configuring of the radio in which the software is received based upon the user request;

executing one or more instructions on the portable device (200) to receive configuration information in response to determining that configuration of the portable device (200) is desired (see col. 4, lines 25-44; 54-67; col. 7, lines 42-48; Figs. 1, 2, and 3), where the controller determines the need for new or updated software and request and receive the software; and

storing the received configuration information in the portable device (200) (see col. 5, lines 33-41; Figs. 3 and 4), where the controller stores the information (e.g., software programs, waveforms, licenses) in the storage unit. As a note, Fette discloses the SDC (114) and server (110) recognizes which software updates the radio (200) needs (see col. 4, lines 27-35). Fette does not specifically disclose having the features diagnosing a malfunction of a portable device using a remote device; determining in the portable device itself if configuration of the portable device is desired based on the determination detecting a malfunction. However, the examiner maintains that the features diagnosing a malfunction of a portable device using a remote device; determining in the portable device itself if configuration of the portable device (200) is desired based on the determination detecting a malfunction was well known in the art, as taught by Moles.

In the same field of endeavor, Moles discloses the features diagnosing a malfunction of a portable device using a OTAMD server (160) which reads on the claimed "remote device" (see pg. 4-5, ¶ [0055-0057]; Fig. 3), where the MS (112) communicates with the OTAMD server (160);

determining in the portable device itself if configuration of the mobile station (112) which reads on the claimed “portable device” is desired based on the determination detecting a malfunction (see pg. 5, ¶ [0066], lines 13-16; pg. 6, ¶ [0068]; Fig. 5 “ref. 505”), where the MS (112) performs a diagnostic test and detects an internal fault.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Moles to have the features diagnosing a malfunction of a portable device using a remote device; automatically determining in the portable device itself if configuration of the portable device is desired based on the determination detecting a malfunction, in order to perform diagnostic operations on wireless handsets and other types of mobile stations, as taught by Moles (see pg. 2, ¶ [0017]).

Regarding **claim 9**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 8), in addition Fette further discloses the method of claim 8, further comprising initializing the portable device (200) with at least a portion of the received configuration information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9), where the controller configures the portable device with the update information.

Regarding **claim 10**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 8), in addition Fette further discloses the method of claim 8, comprising establishing a wireless connection (105) with the remote device (114) (see col. 3, lines 28-41; Fig. 1), where the portable device establishes a connection with the SDC via the base station to the server which is coupled to the SDC,

transmitting a radio ID which hereinafter reads on the claimed “unique identifier”

associated with the portable device (200) (see col. 8, lines 3-14), where a unique radio ID is associated with the portable device for identification of licenses and software, and

receiving configuration information from the remote device (114) associated with the unique identifier (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 42-49; col. 8, lines 3-14), where the controller receives the requested information for the portable device based on the associated radio ID.

Regarding **claim 11**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 8), in addition Fette further discloses the method of claim 8, wherein determining if configuration is desired comprises detecting an indication to reconfigure the portable device (see col. 2, lines 34-45; col. 4, lines 25-36; col. 7, lines 42-49), where the availability of new or updated software will indicate that the portable device will be reconfigured in accordance to the latest software.

Regarding **claim 12**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 8), in addition Fette further discloses the method of claim 8, wherein storing the received configuration information comprises storing at least one of an operating system, protocol stack, and application layer of the portable device (see col. 3, lines 40-57; col. 4, lines 25-36; col. 5 lines 33-41; col. 6, lines 24-65; Figs. 3 and 4), where the portable device receives and stores information for the operating software, communication protocol, or an application in the memory.

Regarding **claim 36**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 8), in addition Fette further discloses the method of claim 8, further comprising visually prompting a user to verify that the configuration is



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desired (see col. 3, lines 31-50; col. 4, lines 30-35; col. 5, lines 21-23; col. 7, lines 41-49; Fig. 4 “ref. 334”), where the user can request new or updated software and accept or deny the software for configuring the radio in which the visually prompting would be inherent via a display(214) as evidenced by the fact that one of ordinary skill in the art would clearly recognize.

**Claims 13-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (US 6,052,600) in view of **Criss et al.** (hereinafter Criss) (US 6,735,434 B2).

Regarding **claim 13**, Fette discloses a memory (206) which reads on the claimed “article” comprising one or more machine-readable storage media containing instructions that if executed enable a portable device (200) (see col. 4, line 64 - col. 5, line 21) to:

diagnosed a malfunction of the portable device (200) (see col. 8, lines 29-38; col. 9, lines 11-20; Fig. 3 “ref. 316, 324”), where the radio fails to support an operation;

determine whether configuration information for the portable device (200) is desired (see col. 3, lines 31-41; col. 4, lines 25-36; col. 7, 42-49; Fig. 3), where the radio checks to see if new or updated software (information) is available and request the information to configure the radio;

request the configuration information from a remote device (114) (see col. 4, lines 25-36; col. 7, lines 42-48; Figs. 3 and 4);

store the configuration information received from the remote device (114) in response to requesting the configuration information (see col. 5, lines 11-41; Figs. 3 and 4); and

configure the portable device (200) using the configuration information (see col. 5, lines 11-21; col. 6, lines 62-65; Figs. 3 and 4), where the portable device is configured based on the information for configuring. As a note, Fette discloses the SDC (114) and server (110) recognizes which software updates the radio (200) needs (see col. 4, lines 27-35). Fette does not specifically disclose having the feature receive an indication from a base station that the base station; determine whether configuration information for the portable device is desired based on the indication. However, the examiner maintains that the feature receive an indication from a base station that the base station; determine whether configuration information for the portable device is desired based on the indication was well known in the art, as taught by Criss.

Criss further discloses the feature receive an indication from a base station (28) that the base station (28) (see col. 6, lines 60-67; col. 7, lines 24-60; Figs. 1-2, 12), where the host computer detects that the mobile terminal is using an older version of operating software and transmits a request via the base station to the mobile terminal for an upgrade;

determine whether configuration information for the portable device is desired based on the indication (see col. 6, lines 60-67; col. 7, lines 24-60; Figs. 1-2, 12), where the host computer detects that the mobile terminal (36) is using an older version of operating software and transmits a request via the base station to the mobile terminal (36) for an upgrade. As a note, the processor (40) according to the schedule table inquires for software update to determines if an upgrade is needed (see col. 24, lines 36-46; col. 3, lines 44-54; Fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Criss to have the feature

receive an indication from a base station that the base station; determine whether configuration information for the portable device is desired based on the indication, in order to have software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

Regarding **claim 14**, the combination of Fette and Criss discloses every limitation claimed, as applied above (see claim 13), in addition Fette further discloses the article (206) of claim 13, wherein the instructions if executed enable the portable device (200) to request configuration information in response to detecting an indication to reconfigure the portable device (200) (see col. 2, lines 34-45; col. 4, lines 25-36; 54-67; col. 7, lines 42-48; Figs. 1, 2, and 3), where the controller determines the need for new or updated software and request and receive the software to reconfigure the portable device based on the user request in which the instructions would be inherent.

Regarding **claim 15**, the combination of Fette and Criss discloses every limitation claimed, as applied above (see claim 13), in addition Fette further discloses the article of claim 13, wherein the instructions if executed enable the portable device (200) to transmit a unique identifier associated with the portable device and receive the configuration information associated with the unique identifier (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 42-49; col. 8, lines 3-14), where the controller receives the requested information for the portable device based on the associated radio ID.

Regarding **claim 16**, the combination of Fette and Criss discloses every limitation claimed, as applied above (see claim 13), in addition Fette further discloses the article of

claim 13, wherein the instructions if executed enable the portable device (200) to initialize the portable device (200) using at least a portion of the configuration information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9), where the controller configures the portable device with the update information.

Regarding **claim 17**, the combination of Fette and Criss discloses every limitation claimed, as applied above (see claim 13), in addition Fette further discloses the article of claim 13, wherein the instructions if executed enable the portable device (200) to store information to upgrade the configuration of the portable device (200) (see col. 5, lines 33-41; Figs. 3 and 4), where the controller stores the information (e.g., software programs, waveforms, licenses) in the storage unit.

Regarding **claim 18**, the combination of Fette and Criss discloses every limitation claimed, as applied above (see claim 13), in addition Fette further discloses the article of claim 13, wherein the instructions if executed enable the portable device (200) to store at least one of an operating system, protocol stack, and application layer of the portable device (200) (see col. 3, lines 40-57; col. 4, lines 25-36; col. 5 lines 33-41; col. 6, lines 24-65; Figs. 3 and 4), where the portable device receives and stores information for the operating software, communication protocol, or an application in a memory.

**Claims 35, 37-39, and 43** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (**US 6,052,600**) in view of **Moles et al.** (hereinafter Moles) (**US 2002/0072359 A1**) as applied to claims 8 and 11 above, and further in view of **Criss et al.** (hereinafter Criss) (**US 6,735,434 B2**).

Regarding **claim 35**, the combination of Fette and Moles discloses every limitation claimed as applied above in claim 11. The combination of Fette and Moles does not specifically disclose having the feature wherein diagnoses the indication comprises receiving the indication from a base station if the base station detects a problem with the portable device. However, the examiner maintains that the feature wherein diagnoses the indication comprises receiving the indication from a base station if the base station detects a problem with the portable device was well known in the art, as taught by Criss.

Criss further discloses the feature wherein diagnoses the indication comprises receiving the indication from a base station (28) if the base station (28) detects a problem (e.g., old software version) with the mobile terminal (36) which reads on the claimed “portable device” (see col. 6, lines 60-67; col. 7, lines 24-60; Figs. 1-2, 12), where the host computer detects that the mobile terminal is using an older version of operating software and transmits a request via the base station to the mobile terminal for an upgrade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Moles, and Criss to have the feature wherein diagnoses the indication comprises receiving the indication from a base station if the base station detects a problem with the portable device, in order to have

software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

Regarding **claim 37**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 11), in addition Fette further discloses the method of claim 11, further comprising reconfiguring the portable device (200) to a previous operable state (see col. 9, lines 14-20,50-51; Fig. 4 “ref. 324, 334, 336”), where the return of the radio to a previous operable state would be inherent when test for the update information (software) is unusable or when the user does not accept to software. The combination of Fette and Moles does not specifically disclose having the feature using reconfiguration information associated with the portable device in the previous operational state. However, the examiner maintains that the feature using reconfiguration information associated with the portable device in the previous operational state was well known in the art, as taught by Criss.

Criss further discloses the feature using reconfiguration information associated with the portable device in the previous operational state (see col. 14, lines 58-62), where the portable terminal has the ability to use the old version when there is a problem with the new version thereby allowing the portable terminal to rollback or revert to the old version in which the portable device is reconfigured to a previous operable state.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Moles, and Criss to have the feature using reconfiguration information associated with the portable device in the previous operational state, in order to have software upgrades that are wirelessly transmitted to a

mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

Regarding **claim 38**, the combination of Fette, Moles, and Criss discloses every limitation claimed, as applied above (see claim 37), in addition Fette further discloses the method of claim 37, further comprising reconfiguring the portable device (200) after an unsuccessful upgrade attempt (see col. 8, lines 24-31; col. 9, lines 14-20; Figs. 3 and 4 “ref. 322, 334, 336”), where the radio is unable to generate the operation of the information (waveform) that has been received in which the reconfiguring would be inherent as evidenced by the fact that one of ordinary skill in the art would clearly recognize.

Regarding **claim 39**, the combination of Fette and Moles discloses every limitation claimed, as applied above (see claim 8), in addition Fette further discloses diagnosing the malfunction (see col. 8, lines 29-38; col. 9, lines 11-20; Fig. 3 “ref. 316, 324”), where the radio fails to support an operation. The combination of Fette and Moles does not specifically disclose having the feature by a base station and generating and transmitting an indication to the portable device. However, the examiner maintains that the feature by a base station and generating and transmitting an indication to the portable device was well known in the art, as taught by Criss.

Criss further discloses the feature by a base station (28) and generating and transmitting an indication to the portable device (36) (see col. 6, lines 60-67; col. 7, lines 24-60; Figs. 1-2, 12), where the host computer detects that the mobile terminal is using an older version of operating software and transmits a request via the base station to the mobile terminal for an upgrade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Moles, and Criss to have the feature by a base station and generating and transmitting an indication to the portable device, in order to have software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

Regarding **claim 43**, the combination of Fette and Moles discloses every limitation claimed as applied above in claim 8. Fette does not specifically disclose having the feature including diagnosing the malfunction in response to booting the portable device. However, the examiner maintains that the feature including diagnosing the malfunction in response to booting the portable device was well known in the art, as taught by Criss.

Criss further discloses the feature including diagnosing the malfunction in response to booting the portable device (see col. 6, lines 60-67; col. 7, lines 24-60; Figs. 1-2, 12), where the mobile terminal goes through a boot-up routing or initialization in which the host computer detects that the mobile terminal is using an older version of operating software and transmits a request via the base station to the mobile terminal for an upgrade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Moles, and Criss to have the feature including diagnosing the malfunction in response to booting the portable device, in order to have software upgrades that are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).



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**Claim 40** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (US 6,052,600) in view of **Moles et al.** (hereinafter Moles) (US 2002/0072359 A1) and **Criss et al.** (hereinafter Criss) (US 6,735,434 B2) as applied to claim 39 above, and further in view of **Sharma et al.** (hereinafter Sharma) (US 6,766,165 B2).

Regarding **claim 40**, the combination of Fette, Moles, and Criss discloses every limitation claimed, as applied above (see claim 39), in addition Fette further discloses establishing a connection (105) between the base station (106) and the portable device (200) (see Fig. 1). The combination of Fette, Moles, and Criss does not specifically disclose having the feature secure connection. However, the examiner maintains that the feature secure connection was well known in the art, as taught by Sharma.

In the same field of endeavor, Sharma discloses the feature secure channel which reads on the claimed "connection" (see col. 4, lines 38-43; col. 5, lines 1-7; abstract; Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Moles, Criss, and Sharma to have the feature secure connection, in order to have flexibility and mobility of a network manager such as an administrator or a technician to manage and troubleshoot problems on a network, as taught by Sharma (see col. 3, lines 10-13; col. 4, lines 34-38).

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**Claim 46** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (US **6,052,600**) in view of **Moles et al.** (hereinafter Moles) (US **2002/0072359 A1**) as applied to claim 8 above, and further in view of **Imamatsu** (US **6,687,901 B1**).

Regarding **claim 46**, the combination of Fette and Moles discloses every limitation claimed as applied above in claim 8. The combination of Fette and Moles does not specifically disclose having the feature further comprising prompting a user to couple the portable device to a battery charger prior to the request for the configuration information to executing one or more instructions on the portable device to receive the configuration information. However, the examiner maintains that the feature further comprising prompting a user to couple the portable device to a battery charger prior to the request for the configuration information to executing one or more instructions on the portable device to receive the configuration information was well known in the art, as taught by Imamatsu.

Imamatsu further discloses the feature further comprising prompting a user to couple the portable device (10) to a battery charger prior to the request for the configuration information to executing one or more instructions on the portable device to receive the configuration information (see col. 9, lines 12-30; Figs. 2-3 and 7-8), where the update is performed according to the condition of the battery such as the mobile device (10) connected to a charger.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Moles, and Imamatsu to have the feature further comprising prompting a user to couple the portable device to a battery charger

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prior to the request for the configuration information to executing one or more instructions on the portable device to receive the configuration information, in order to update software efficiently and safely with a simple structure and control in a radio terminal device, as taught by Imamatsu (see col. 2, lines 10-14).

**Alternate Claim Rejection(s):**

The text of those sections of Title 35, U.S. Code not included in this section can be found above.

**Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter Fette) (**US 6,052,600**) in view of **Webster et al.** (hereinafter Webster) (**US 6,449,493 B1**) and **Criss et al.** (hereinafter Criss) (**US 6,735,434 B2**).

Regarding **claim 1**, Fette discloses a software programmable radio (200) which hereinafter reads on the claimed “portable device” (see col. 4, lines 54-67; Figs. 1 and 2), comprising:

a memory (206) which hereinafter reads on the claimed “storage unit” having a first portion and second portion (see col. 4, lines 55-56; col. 5, lines 33-49,55-57; col. 6, line 21-23,62-65; Fig. 2 “ref. 206”), where the memory has separate portions for storing information;

a configuration application stored in the second portion (see col. 3, lines 52-57; col. 5, lines 11-13,18-22,33-49,55-57; col. 6, line 21-23,62-65; Fig. 2 “ref. 206”); and

a controller (204) which hereinafter reads the claimed “control unit” communicatively coupled to the storage unit (206) (see Fig. 2),

based upon detection of a problem (see col. 8, line 54-57; col. 8, line 64 - col. 9, line 19; Figs. 3 “ref. 314, 320”, 4 “ref. 322, 324”), where the controller (204) of the radio (200) tests the software by checking for problems,

request configuration information in response to determining that configuration is desired (see col. 3, lines 31-34, col. 4, lines 25-34; col. 7, lines 42-48; Fig. 3), and

receive the requested configuration information (see col. 4, lines 34-36), where the mobile radio receives the requested software updates; and

store the requested configuration information in the second portion of the storage unit (206) (see col. 5, lines 33-48, 55-57; col. 4, lines 27-35; Figs. 2 “ref. 206”, 3, and 4), where the controller stores the information (e.g., software programs, configuration/reconfiguration files, waveforms, licenses) in portions of the storage unit. Also, the storage unit (206) has separate portions as shown in Fig. 2 “206”. Fette does not specifically disclose having the features the second portion comprising a protected region; the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station. However, the examiner maintains that the features the second portion comprising a protected region was well known in the art, as taught by Webster.

In the same field of endeavor, Webster discloses the feature the second portion comprising a protected region (see col. 3, lines 12-15, 44-50; col. 5, lines 46-54; Fig. 1 “ref. 32”), where the regions of the memory uses, for example, dealer programs or passwords to protect against alterations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Webster to have the feature the second portion comprising a protected region, in order to make operation of the portable or mobile radio simple, as taught by Webster (see col. 1, lines 38-42). The combination of Fette and Webster does not specifically disclose having the feature the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station. However, the examiner maintains that the feature the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station was well known in the art, as taught by Criss.

In the same field of endeavor, Criss discloses the feature the processor (40) which reads on the claimed "control unit" to execute the configuration application to determine whether configuration of the mobile terminal (36) which reads on the claimed "portable device" is desired based upon detection of a problem by a base station (see col. 24, lines 36-46; col. 3, lines 44-54; Fig. 2), where the processor according to the schedule table inquires for software update to determines if an upgrade is needed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette, Webster, and Criss to have the feature the control unit to execute the configuration application to determine whether configuration of the portable device is desired based upon detection of a problem by a base station, in order to have software upgrades that are wirelessly transmitted to a mobile device

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based on a determination of whether such an upgrade is necessary, as taught by Criss (see col. 2, lines 55-58).

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-2, 4, 6-18, and 33-46 have been considered but are moot in view of the new ground(s) of rejection. In response to applicant's arguments, the Examiner respectfully disagrees as the applied reference(s) provide more than adequate support and to further clarify (see the above claims).
4. Applicant amended the claim language and added new claims but failed to provide support (i.e., page(s), line(s), and drawing(s)) for the newly amended and added claim language. The Examiner requests applicant to provide support for the response filed 29 September 2006 and any further amended claim language.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

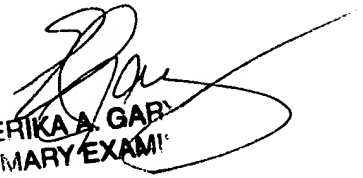
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905 or Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR  
27 November 2006

  
ERIKA A. GARZA  
PRIMARY EXAMINER